

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOANN E. CAPPEL, : :

Plaintiff : No. 3:CV-05-544

v. : (McClure, J.)

JO ANNE B. BARNHART, : (Mannion, M.J.)
Commissioner of Social Security,
Defendant :

O R D E R

March 14, 2006

BACKGROUND:

On March 17, 2005, plaintiff Joann E. Cappel, commenced this civil action under 42 U.S.C. §§ 405(g), seeking judicial review of the Commissioner's denial of her claim for Disability Insurance Benefits, under Title II of the Social Security Act. 42 U.S.C. §§ 401-433.

The matter was initially referred to United States Magistrate Judge Malachy E. Mannion.

On February 23, 2006, Magistrate Judge Mannion issued a fourteen-page report and recommendation, which recommended that plaintiff's appeal be denied. Objections to the report and recommendation were due on March 13, 2006.

Plaintiff has failed to file objections.

After reviewing the ALJ's opinion and the administrative record upon which it was based, the court finds that Magistrate Judge Mannion properly concluded that the ALJ's opinion was based on substantial evidence. Therefore, the report and recommendation will be adopted and the case will be closed.

DISCUSSION:

A district court reviews de novo those portions of a magistrate judge's report and recommendation to which a party objects. L.R. 72.3. The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." Id.

We have jurisdiction to hear this claim pursuant to 42 U.S.C. § 405(g). Our role is to determine whether there is substantial evidence in the administrative record to support the Commissioner's decision and findings of fact. 42 U.S.C. § 405(g); Plummer v. Apfel, 186 F.3d 422, 427 (3d Cir. 1999). "Substantial evidence means 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" Jones v. Barnhart, 364 F.3d 501, 503 (3d Cir. 2004) (quoting Jesurum v. Sec'y of the U.S. Dep't of Health & Human Servs., 48 F.3d 114, 117 (3d Cir. 1995) (quoting Richardson v. Perales, 402 U.S. 389, 401 (1971)). "It is less than a preponderance of the evidence but more than a mere scintilla." Id. The

substantial evidence standard is a deferential standard of review. Id.

Plaintiff has not filed any objections. The report and recommendation is carefully reasoned and addresses plaintiff's sole arguments raised on appeal, i.e., that the hypothetical the ALJ posed to the vocational expert at Cappel's hearing did not reflect all of plaintiff's impairments which were supported in the record. We agree with the magistrate judge that the ALJ's hypothetical adequately set forth Cappel's limitations as supported by the record, and for the reasons set forth in his report and recommendation, we find that the ALJ's decision was based on substantial evidence.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The court adopts the magistrate judge's report and recommendation in full. (Rec. Doc. No. 15.)
2. Plaintiff's appeal is denied, and the action of the Commissioner of Social Security is affirmed.
3. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge